

Senate Bill No. 775

Passed the Senate August 19, 2008

Secretary of the Senate

Passed the Assembly August 13, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 105310 of, and to add Sections 124127, 124166, 124167, and 124168 to, the Health and Safety Code, relating to childhood lead poisoning.

LEGISLATIVE COUNSEL'S DIGEST

SB 775, Ridley-Thomas. Childhood lead poisoning.

Existing law, the Childhood Lead Poisoning Prevention Act of 1991, requires the State Department of Public Health to adopt regulations establishing a standard of care, at least as stringent as the most recent United States Centers for Disease Control and Prevention blood lead level screening guidelines, whereby all children are required to be evaluated for risk of lead poisoning by health care providers during each child's periodic health assessment. These provisions are to be implemented only to the extent there are sufficient fees collected from certain manufacturers and persons who significantly contributed or currently contribute, or both, to environmental lead contamination. These fees are deposited into the Childhood Lead Poisoning Prevention Fund. Moneys in the fund are required to be expended for purposes of the act, upon appropriation.

Existing law also establishes a Childhood Lead Poisoning Prevention Program within the department. Under the program, a laboratory that performs a blood lead analysis on a specimen of human blood drawn in the state is required to report prescribed information to the department on every person tested. Notwithstanding this requirement, the act provides the department with the authority to, among other things, develop protocols to be utilized in screening the level of lead in blood and procedures for changing the protocols when more accurate or efficient technologies become available.

This bill would require the department to make available on its Web site the most current information on lead, as specified, and would require providers primarily responsible for providing prenatal care to explain to pregnant women that lead poisoning prevention information is available on the Web site or provide other information about lead poisoning prevention.

This bill would also require the department to provide an annual report to the Legislature, the Governor, and the public on the status of the state's lead poisoning prevention programs that includes an evaluation of the state's lead screening activities, as specified.

This bill would, under prescribed circumstances, require a licensed health care provider who is providing services to a child under a publicly funded program to conduct, or provide a referral for, a blood lead test.

This bill would provide that, upon appropriation by the Legislature, money in the Childhood Lead Poisoning Prevention Fund would be available for specified purposes of the bill, and the implementation of the bill would be subject to the availability of funds appropriated from the Childhood Lead Poisoning Prevention Fund.

The people of the State of California do enact as follows:

SECTION 1. Section 105310 of the Health and Safety Code is amended to read:

105310. (a) There is hereby imposed a fee on manufacturers and other persons formerly, presently, or both formerly and presently engaged in the stream of commerce of lead or products containing lead, or who are otherwise responsible for identifiable sources of lead, which have significantly contributed historically, currently contribute, or both have significantly contributed historically and contribute currently to environmental lead contamination.

(b) After July 1, 1992, but on or before January 1, 1993, the department shall, by regulation, establish specific fees to be assessed on manufacturers and other parties formerly, presently, or both formerly and presently engaged in the stream of commerce of lead or products containing lead, or who are otherwise responsible for identifiable sources of lead which, as determined by the department, have significantly contributed historically, currently contribute, or both have significantly contributed historically and contribute currently to environmental lead contamination.

To the maximum extent practicable, the fees shall be assessed on the basis of the following criteria:

(1) A person's past and present responsibility for environmental lead contamination.

(2) A person's "market share" responsibility for environmental lead contamination.

This section shall not apply to, and no fee shall be assessed upon, any retailer of lead or products containing lead.

(c) The fee shall be assessed and collected annually by the State Board of Equalization. The first payment of these fees shall be due on or before April 1, 1993. The annual fee assessment in subdivision (a) shall be adjusted by the department to reflect both of the following:

(1) The increase in the annual average of the California Consumers Price Index, as recorded by the California Department of Industrial Relations, for the most recent year available.

(2) The increase or decrease in the number of children in California who are receiving services pursuant to this article.

This adjustment of fees shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) (1) No fee shall be assessed upon a person if that person can demonstrate, as determined by the department, that his or her industry did not contribute in any manner, as described in this section, to environmental lead contamination.

(2) No fee shall be assessed upon a party if that party demonstrates, as determined by the department, that the lead, or the product containing lead, with which it is currently, or was historically, associated does not currently, or did not historically, result in quantifiably persistent environmental lead contamination.

(e) The fee imposed pursuant to this section shall be administered and collected by the State Board of Equalization in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. The fees shall be deposited in the Childhood Lead Poisoning Prevention Fund, which is hereby created in the State Treasury. Moneys in the fund shall be expended for the purposes of this chapter, including the State Board of Equalization's costs of collection and administration of fees, for the purposes of making informational materials available pursuant to subdivision (a) of Section 124166, and for the purposes of implementing the requirements of Section 124167, upon appropriation by the Legislature. All interest earned on the moneys

which have been deposited into the Childhood Lead Poisoning Prevention Fund shall be retained in that fund.

(f) The fees collected pursuant to this section and the earnings therefrom shall be used solely for the purposes of implementing this chapter, producing an annual report pursuant to Section 124127, making information available pursuant to subdivision (a) of Section 124166, and implementing the requirement of Section 124167. The department shall not collect fees pursuant to this section in excess of the amount reasonably anticipated by the department for these purposes. The department shall not spend more than it collects from the fees and the earnings for these purposes. In no fiscal year shall the department collect more than sixteen million dollars (\$16,000,000) in fees, as adjusted for inflation pursuant to subdivision (b).

(g) It is the intent of the Legislature, in subsequent legislation, to appropriate and deposit into the Childhood Lead Poisoning Prevention Fund the sum of one hundred twenty-eight thousand dollars (\$128,000) from the General Fund on July 1, 1992, to the Controller for allocation as loans as follows:

(1) Seventy-eight thousand dollars (\$78,000) to the department, for the purposes of adopting regulations to establish the fee schedule authorized by this section. The State Board of Equalization shall repay the amount of this appropriation, on or before June 30, 1993, with interest at the pooled money investment rate, from fees collected pursuant to this section.

(2) Fifty thousand dollars (\$50,000) to the State Board of Equalization, for the purposes of implementing this section. The State Board of Equalization shall repay the amount of this appropriation on or before June 30, 1993, with interest at the pooled money investment rate, from fees collected pursuant to this section.

(h) Regulations adopted for fee assessment and collection pursuant to this section shall be exempt from review by the Office of Administrative Law.

SEC. 2. Section 124127 is added to the Health and Safety Code, to read:

124127. (a) The department shall provide an annual report to the Legislature, the Governor, and the public on the status of the state's lead poisoning prevention programs, including, but not limited to, the number of children screened and those determined to have elevated blood lead levels in the prior year. The report

shall also include an evaluation of the effectiveness of the state's lead screening activities, including, but not limited to, the establishment of benchmarks for geographic regions in the state determined to be at increased risk and benchmarks for Medi-Cal, the Child Health and Disability Prevention Program, and the Healthy Families Program.

(b) For purposes of this report, the State Department of Health Care Services and the Managed Risk Medical Insurance Board shall make available all necessary information related to the blood lead testing of participants in public health care programs.

SEC. 3. Section 124166 is added to the Health and Safety Code, to read:

124166. (a) The department shall make available on its Web site the most current information about the sources of lead, lead-safe work practices, and the impact of lead poisoning on a child's health.

(b) Every health care provider who is primarily responsible for providing prenatal care shall explain to every pregnant female patient, within her first trimester or at the earliest opportunity, that lead poisoning prevention information is available on the department's Web site or may provide other information about lead poisoning prevention.

SEC. 4. Section 124167 is added to the Health and Safety Code, to read:

124167. (a) A licensed health care provider who is a child's primary care practitioner operating within his or her scope of practice shall conduct a blood lead test, or shall provide a referral for a blood lead test, at both 12 months and 24 months of age, when providing primary care services to a child who receives services from a publicly funded program for low-income children. If no previous blood lead test has been performed at 12 months of age and at 24 months of age, the child shall be given, or referred for, a blood lead test at the earliest opportunity before 72 months of age.

(b) Documentation of the blood lead test performed, including the date of test performance, shall be included on the records of immunization described in Section 120355 by January 1, 2010.

SEC. 5. Section 124168 is added to the Health and Safety Code, to read:

124168. Sections 124127, 124166, and 124167 shall be implemented only to the extent fee revenues pursuant to Section 105310 are available for expenditure for the purposes of subdivision (a) of Section 124166 and the purpose of implementing the requirements of Section 124167.

Approved _____, 2008

Governor